

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 347

S. P. 135

In Senate, January 26, 1971

Referred to Committee on State Government. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Johnson of Somerset.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to Insurance on State-Owned Property.

Emergency preamble. Whereas, Acts of the Legislature to not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the present insurance on state property expires July 1, 1971; and

Whereas, the proposed legislation should become effective prior to that date, to enable the Insurance Advisory Board to replace expiring insurance coverage and to increase the deductible provisions of state insurance with the long range goal of permitting the State to be self-insured on a properly funded basis; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine, and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 5, §§ 1711-1723, repealed. Sections 1711 to 1723 of Title 5 of the Revised Statutes, as enacted by section 2 of chapter 514 of the public laws of 1965, are repealed.

Sec. 2. R. S., T. 5, §§ 1725-1736, additional. Title 5 of the Revised Statutes is amended by adding 12 new sections 1725 to 1736 to read as follows:

§ 1725. The Maine Insurance Advisory Board

The Maine Insurance Advisory Board, as heretofore created and hereinafter in this chapter called the "board," shall provide advice under this chapter.

The board shall be composed of 5 members, residents of the State, who shall be appointed by the Governor, as follows: 2 members familiar with risk management shall be selected from the public and 3 members shall be selected from representatives of the insurance industry. Existing appointments expiring in 1971 shall be made for terms of 3 years and 4 years respectively, the 1972 appointment shall be for a term of 4 years and the 1973 appointments shall be for terms of 4 and 5 years respectively and until their successors are duly appointed and qualified. Appointments thereafter shall be for terms of 5 years each and until their successors are duly appointed and qualified.

No insurance policy or bond issue to the State shall be placed through any member of the board, his firm or employer during his membership on the board.

§ 1726. Meetings; compensation

The board shall meet at the call of the chairman or at the request of 2 or more members but not less than 4 times per year. Special meetings shall be held at such times as rules and regulations shall provide. Three members of the board shall constitute a quorum of the board. The board shall annually elect a chairman.

The members of the board shall receive as compensation for their services \$20 a day for the time actually spent in the discharge of their duties, and shall be reimbursed for necessary expenses incurred in the discharge of their duties at the same rates as would apply to employees of the State of Maine, subject to appropriations made.

§ 1727. Personnel; selection; duties

The board shall employ an executive secretary who has a comprehensive knowledge of insurance practices and principles and who shall administer the duties imposed by this chapter, with the advice of the board. The executive secretary shall be an employee of the State and his duties and compensation shall be subject to the Personnel Law.

The executive secretary shall assist the board in the discharge of its duties and assist in the preparation of the invitations for bids as authorized by section 1728.

§ 1728. Powers and duties of the board

The board shall provide insurance advice and services for the State Government and any department or agency thereof for all forms of insurance, except for those departments or agencies and those types of insurance otherwise provided for by law. In this regard the board shall have the following duties:

1. Annual reports. Review annually the entire subject of insurance as it applies to all state property and activities, and report to the Governor and the Commissioner of Finance and Administration a statement of its activities during the year ended the preceding June 30th. This report shall include:

- A. An evaluation of the state insurance program;
- B. A complete statement of all types and costs of insurance in effect;
- C. Names of agents and companies of record;
- D. Such other matters as the board determines to be appropriate and necessary or as the Governor may request.

2. Recommendations. Recommend to the Governor such insurance protection as the board may deem to be necessary or desirable for the protection of all state property.

3. Purchase of insurance. Pursuant to programs approved by the Governor, provide insurance protection for state property by self-insurance as provided or purchase of insurance from companies or agents licensed to do business in the State of Maine, or by both. The effect the best possible contracts as to services, coverages and costs, the purchase of insurance under this section normally shall be made upon competitive bidding, except that the board may in appropriate circumstances purchase insurance by negotiation. In the event of the purchase of insurance upon competitive bidding, the chairman of the board shall announce the low bid at a meeting advertised for the opening of bids, which, when approved by the Governor, shall constitute an award of a contract of insurance.

4. Schedules of state property. Determine and review the values of property in which the State has an insurable or legal interest and recommend limits and types of insurance protection for such property.

5. Loss prevention practices. Recommend sound safety engineering and loss prevention practices.

6. Appraisal. In case an agreement as to the amount of loss sustained to any building or property insured under this chapter cannot be arrived at between the state agency claimant and the board, such loss shall be referred to appraisal as provided for in Title 24-A, section 3002.

7. Rejection of risk. In the event that the board, by unanimous vote, determines that a risk may be prejudicial to the State's insurance program, it may refuse to include such risk in said program until such time as hazards of the risk have been removed or ameliorated to a satisfactory degree.

When coverage is declined by the board, the department or agency in charge of the risk may request that the board procure separate insurance thereon from any authorized insurance company, and the premium therefor shall be a proper charge against the department or agency responsible for such property.

8. Rules and regulations. The board shall, in accordance with the spirit and intent of the law, make such rules and regulations as may be desirable or necessary for the performance of its duties, and for carrying out the purpose of this chapter.

§ 1729. Removal of members; vacancies

The Governor may remove any member of the board for misconduct, incompetency, neglect of duty or for any other sufficient cause.

The Governor shall by appointment fill any vacancy in the membership of the board for the unexpired term.

§ 1730. Records; audit

The board shall keep a record of all its proceedings and expenditures of the board, attested by affidavits of its chairman and secretary.

The board shall have an audit made of its accounts annually covering the last complete fiscal year by the Department of Audit.

The policies for all insurance placed shall be kept on file with the board.

§ 1731. Reserve fund for self-insured losses

A reserve fund, hereinafter in this chapter called "the fund," is created to indemnify the State for self-insured losses and related loss adjustment expenses from those perils insured against under a deductible or self-insurance program, as recommended by the board and approved by the Governor. The fund shall be a continuing fund and shall not lapse.

§ 1732. Administration

The fund shall be administered by the Commissioner of Finance and Administration. Subject to the approval of the board, the Commissioner of Finance and Administration shall deposit the fund with the Treasurer of State for investment. All proceeds of such investment shall accrue to the fund.

§ 1733. Capitalization of the fund

The fund shall be capitalized by legislative appropriations, payments from state departments and agencies and by such other means as the Legislature may approve.

Appropriations and payments to the fund in respect to general fund departments and agencies shall not exceed an amount equal to the difference between the premium for insurance proposed to be purchased and the premium for mandatory deductible or full insurance coverage. In any instance in which the State becomes a full self-insurer, the premium shall be that for full insurance coverage adjusted for any mandatory deductible.

All other state departments and agencies, except those specifically excluded by statute, shall pay to the fund premiums as determined by the board, not to exceed in each case an amount equal to the difference between the premium for insurance proposed to be purchased and the premium for mandatory deductible or full insurance coverage. In any instance in which the State becomes a full self-insurer, the premium shall be that for full insurance coverage adjusted for any mandatory deductible.

All premiums referred to in this section shall be computed on the basis of rates promulgated by a recognized rating authority.

§ 1734. Fund limitation

The fund shall not exceed 2% of the then current value of all state-insured or self-insured property protected by the fund as determined by the board.

If the fund reaches or exceeds the maximum amount specified in this section, payments to the fund, as specified in section 1733, shall cease and any excess shall be transferred into the General Fund not later than the end of the first quarter of the next fiscal year.

Payments to the fund shall not begin again until such time as the amount in the fund drops below the maximum amount specified in this section.

§ 1735. Depletion of fund

In the event that payments from the fund should reduce it below \$1,500,000, the board shall recommend to the Legislature that funds be appropriated to restore the fund up to the maximum amount it had previously attained.

§ 1736. Payment of Losses

Pursuant to the recommendation of the board, the Commissioner of Finance and Administration shall cause payments from the fund or proceeds of insurance purchased in accordance with this chapter, or both, to be made available for repair or replacement of insured property and payment of loss adjustment expenses.

No payment shall be made from the fund for any loss not exceeding \$250 and the fund shall pay only that portion of any loss in excess of \$250.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble.